

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

|                             |   |                               |
|-----------------------------|---|-------------------------------|
| FRANK W. HARRIS,            | ) |                               |
|                             | ) |                               |
| Plaintiff,                  | ) |                               |
|                             | ) |                               |
| v.                          | ) | Civ. Act. No. 3:17-cv-816-ECM |
|                             | ) | (WO)                          |
| MEDICAL PARK HEALTH CENTER, | ) |                               |
| INC., <i>et al.</i> ,       | ) |                               |
|                             | ) |                               |
| Defendants.                 | ) |                               |

**ORDER**

Now pending before the Court are Defendant Medical Park Health Center, Inc.’s (“Medical Park”) motion to dismiss (Doc. 8), Defendant Paul Oswald’s (“Oswald”) motion to dismiss (Doc. 14), and Oswald’s motion to strike jury demand. (Doc. 13).

On August 8, 2019, the Plaintiff filed an Amended Complaint bringing only ERISA claims. (Doc. 41). Both of the motions to dismiss were directed to the original complaint (Doc. 1). ERISA claims are non-jury claims, *Hunt v. Hawthorne Assocs., Inc.*, 119 F.3d 888, 907 (11th Cir. 1997), and the jury demand was removed from the case upon the filing of the amended complaint.

Accordingly, it is ORDERED that the motions to dismiss (Doc. 8 & 14) and motion to strike jury demand (Doc. 13) are DENIED as moot.

DONE this 17th day of September, 2019.

/s/ Emily C. Marks  
EMILY C. MARKS  
CHIEF UNITED STATES DISTRICT JUDGE